

IN THE BOARD OF SELECTMEN  
MONDAY, MARCH 9, 1998

Present: Chairman Lawrence L. Blacker and Selectman John C. Drobinski. Selectman Maryann K. Clark joined the Board at 7: 40 p.m.

The statutory requirements for notice having been met, Chairman Lawrence L. Blacker convened the meeting at 7:35 p.m. at the Fairbank Senior Center.

1998 ATM – Street Acceptances

Present: David A. Campanella, 19 Bulkley Road; Red Donelle, Developer-Bulkley Road, and others.

The Board was in receipt of the following:

1. A communication, dated February 24, 1998, from I. William Place, Director of Public Works/ Town Engineer, reporting that certain streets have been constructed in accord with the Planning Board's Rules and Regulations Governing the Subdivision of Land, dated February 24, 1992. Those streets are: (1) Martin Drive – from Maynard Road to a dead end; a distance of 1,097 feet, more or less; (2) Southwest Circle – from Peakham Road to a dead end; a distance of 314 feet, more or less; (3) Amanda Road – from Dutton Road to a dead end; a distance of 1,473 feet, more or less; and (4) Bulkley Road – from the end of the 1983 public layout to Amanda Road; a distance of 352 feet, more or less.
2. A communication, dated March 6, 1998, from Jody A. Kablack, Town Planner, informing that the Planning Board on March 3, 1998, had recommended as follows regarding the proposed street acceptances: (1) Martin Drive – accept upon receipt of Certificate of Compliance from the Conservation Commission; (2) Southwest Circle – accept upon receipt of Department of Environmental Protection's sign-off on Certificate of Compliance; (3) Amanda Road – the Planning Board will report at Town Meeting; and (4) Bulkley Road – the Planning Board will report at Town Meeting.

At 7:35 p.m., pursuant to ATM Article 5, Chairman Blacker convened a public hearing on the proposed 1998 ATM Street Acceptances.

Notice of the Town's intent to lay out such streets as Town Ways was provided by Steven L. Ledoux, Town Manager, and delivered to the abutters of the ways by I. William Place, Director of Public Works/Town Engineer.

Town Manager Ledoux reported that the Town was still awaiting the Certificate of Compliance from the Conservation Commission regarding Martin Drive and the DEP sign-off regarding Southwest Circle.

However, Chairman Blacker confirmed with the Town Manager that it was necessary for the Board to confirm the proposed street lay outs now in order to include such at the Annual Town Meeting. Chairman Blacker noted, if it is determined at the time of the ATM that any of the streets have not been so certified, they can be pulled off the warrant. He said generally the street layouts are passed at Town Meeting unless the Planning Board or Town Engineer reports a problem.

Selectman Drobinski agreed, and further explained the *acceptance* simply means that the Town takes over ownership of the street. He said that generally homeowners should not notice any change.

David A. Campanella, 19 Bulkley Road, said Bulkley Road had not yet been paved, and he assumed that such could not be done, given the weather, by the time of the upcoming Annual Town Meeting. For this reason, he said he assumed that Bulkley would not be *accepted* until the following year's Annual Town Meeting. He said when the road was put in three years ago no one was responsible for maintaining the drainage recovery areas and he asked who would be responsible for such during the interim.

Selectman Drobinski responded that it was different for each subdivision and that he should check with the Planning Board. Selectman Drobinski said that usually either the developer or the Town is responsible for maintenance.

Chairman Blacker agreed, adding that often the Town is given an easement over private property in order to maintain various drainage works. He suggested that Mr. Campanella inform the Planning Board if there are any problems. Chairman Blacker explained there is a bond to ensure that the construction is completed and any defects should be cured before the Town accepts the layout. He said prior to acceptance the street is plowed and cleaned as other streets in the Town.

Red Donelle, developer, stated he planned to finish the final coat on the street this summer. He explained that there were still five lots to develop and he hoped to finish building this summer and then complete the street. He contended that it made the most sense to complete the building phase first, then clean up and complete the street. Regarding the drainage ponds, Mr. Donelle said that Director of Public Works/Town Engineer I. William Place was monitoring the situation and to date the drainage met with his approval.

Two residents on Southwest Circle reported that the Town was not plowing their street and Chairman Blacker directed the Town Manager to check with the Department of Public Works regarding why the Town was not maintaining that street.

It was on motion unanimously

VOTED: To lay out the following for acceptance by the 1998 Annual Town Meeting under Article 5:

1. Martin Drive, from Maynard Road to a dead end; a distance of 1,097 feet, more or less;
2. Southwest Circle, from Peakham Road to a dead end; a distance of 314 feet, more or less;
3. Amanda Road, from Dutton Road to a dead end; a distance of 1,473 feet, more or less; and
4. Bulkley Road, from the end of the 1983 public layout to Amanda Road; a distance of 352 feet, more or less.

Change of Manager – 99 Restaurant, 698 Boston Post Road

Present: Stephen P. Doran, Manager, 99 Restaurant-Pub, 698 Boston Post Road, and Stephen McGovern, Director of Operations, 99 West Inc., d/b/a 99 Restaurant-Pub, Steven Wishner, 92 Fox Run Road, and others.

Upon request, it was on motion unanimously

VOTED: To approve, in accord with G.L.c. 138, the Change in Manager for the 99 Restaurant, 698 Boston Post Road, to Stephen Paul Doran.

Steven Wishner, 92 Fox Run Road, inquired why the Board was involved in this management decision and Chairman Blacker explained the Board's approval was needed because the "99" held a liquor license.

Selectman Clark commented that the "99" was one of the "good guys" in that it was one of the few licensees that had not been caught in the recent sting operation involving the sale of alcohol beverages to a minor.

Selectman Drobinski questioned whether those licensees who had not been found in violation should also be required to train its employees. He suggested the Board might wish to consider such. He also informed the "99" management personnel present that the Sudbury Police Department also planned similar type investigation regarding cigarette sales to minors.

Mr. McGovern, Director of Operations, 99 West Inc., d/b/a 99 Restaurant-Pub, stated that "99" has a strict training program for its employees regarding service of alcohol and that it no longer permits cigarette vending machines on any of its premises.

#### Commercial Tax Rate

Present: Steven Wishner, 92 Fox Run Road, and others.

Steven Wishner, 92 Fox Run Road, stated he understood the Board would be fixing the Town's Commercial Tax Rate in the immediate future and asked if he might provide his input on that matter at this time. The Board agreed.

Mr. Wishner said the past year had been a strong one for the business community. He said, however, he did not favor any additional shifting of the Town's tax burden on the business community at this juncture. He noted this is the first year residential property taxes will see a decided increase. He reasoned given the stress on the residential rate it is not the time to augment that problem by increasing the commercial rate. Thus, he advocated there be no change and the "shift" be maintained at its current ratio.

#### Minutes

It was on motion unanimously

VOTED: To approve the minutes of the regular session, as amended, and executive session of February 9, the regular and executive sessions of February 23, 1998, and the special meeting of March 2, 1998.

#### Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$110.75 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

#### Approval of Central Mass Branch Recreational Path License

The Board was in receipt of the following:

1. A communication, dated February 24, 1998, from Lorna Moritz, Manager, Leasing and Asset Management, Transit Realty Associates, LLC, enclosing the Central Mass Branch Recreational Path License Agreement for the Town and requesting the Town's execution of such together with issuance of insurance certificates as set out in the agreement. Said agreement would license that segment of the Central Mass Branch railway right of way within the Town for the Town's use as a bicycle path and pedestrian walkway and other related recreational use.
2. A communication dated March 9, 1998, from Paul L. Kenny, Town Counsel, advising that the agreement requires the Town to assume onerous indemnification responsibilities and maintain unnecessary insurance limits. Additionally, Town Counsel Kenny states that the agreement interferes with the Town's right to defend itself in the event of any claims. Finally he notes other troublesome provisions and language.

Town Manager Ledoux suggested the Board continue consideration of this matter until Town Counsel Kenny's concerns can be discussed with the MBTA.

The Board concurred.

#### Town's Participation in MAGIC

Town Manager Ledoux reported that he had received an inquiry from the Town Planner in Acton as to whether Sudbury wished to remain a member of MAGIC. Sudbury has not participated in any MAGIC activities for some time and has not paid dues for the past five years.

Sudbury is a member of both MAGIC and MetroWest Growth Management. Marlboro, another community with dual membership, has withdrawn from MAGIC.

In addition, MAGIC will soon be going to press on an Economic Development information book. MAGIC wants to know of Sudbury's intent to stay a member. If the answer is negative, Sudbury will not be included.

Selectman Clark felt the Town should discontinue membership in MAGIC, noting it is important to have an active Executive Director, which MetroWest has, and also it is expensive for the Town to affiliate with both organizations.

Selectman Drobinski agreed, saying that the Town was in an unusual position in that it overlapped with the two organizations. He said the only segment of the Town affected by MAGIC is along Rt. 117 and suggested that maybe the Town could just obtain the data relating to that area.

Chairman Blacker suggested that the Town communicate its decision to continue only with MetroWest.

#### Town Counsel Appointment

Selectman Drobinski stated he believed it was important to resolve this matter prior to the conclusion of Chairman Blacker's term and suggested the Board consider it at a special meeting.

Chairman Blacker stated, even if the Board determines to change counsel, the Board can make the appointment effective, for example on May 1, to allow for continuity of legal representation at the upcoming Annual Town Meeting.

Selectman Clark suggested the Board consider the issue at a meeting on Thursday, April 2, 1998, at 8:00 a.m. at the Loring Parsonage, and the Board concurred.

#### Telephone Area Codes

Chairman Blacker suggested the Town send a letter to DPU suggesting the area code crisis be resolved by simply issuing cell phones a different and separate area code. He said the need to split again the 617 and 508 area codes is insanity when a simple solution exists.

Selectman Drobinski agreed.

#### Site Plan 98-342 - Windsor Pet Care, Inc., d/b/a Best Friends Pet Resorts & Salons, 150 Boston Post Road

Present: Myron Fox, Esq. for applicant; Roberta A. Brennan, owner of property; Brian Costedio, Director of Architectural & Engineering Services, Highland Management Associates, the development coordinator for the project; Chuck Cramer, architect, Cramer & Levine and Co., Architects; Pat Kayaki, Vice President of Development, Best Friends Pet Care, Inc.; Bob Howton, Hydrogeologist, Action Environmental; Bruce Ey, engineer, Schofield Brothers; and others. Conservation Commission members Stephen Meyer and Bridget Hanson and Coordinator Deborah Dineen arrived at the close of the hearing.

At 8:00 p.m., the Board convened a public hearing on Site Plan Application 98-342 of Windsor Pet Care Inc., d/b/a Best Friends Pet Resorts & Salons, for a Site Plan Permit in accordance with Zoning Bylaws Art. IX.V.A, to partially demolish and reconstruct existing facilities to create an approximate 11,200 sq. ft. two-story building and enlarge the existing dwelling by approximately 950 sq. ft. for a kennel and veterinary clinic on property located at 150 Boston Post Road, owned by Roberta C. Brennan and Alton L. Horton, Jr., zoned Res. A-1, C-1 and BD-1.

Notice of the public hearing was duly posted and advertised in the *Sudbury Town Crier and TAB* on February 5, 1998, and February 12, 1998. Parties of interest, being abutters within 300 feet according to the Assessors, were provided written notice by first class mail. Additionally, the Planning Boards of Acton, Concord, Framingham, Hudson, Lincoln, Marlborough, Maynard, Stow and Wayland were provided written notice by first class mail.

The Board was in receipt of the following:

1. Application for a Site Plan Special Permit, dated January 5, 1997 (sic), submitted by Best Friends Pet Resorts & Salons for a kennel facility, veterinarian clinic and accessory uses, at 150 Boston Post Road, Route 20, and including an undated consent of record owner, executed by Roberta C. Brennan; and Site Plan Application plans, consisting of 12 sheets, dated November 18, 1997 or July 18, 1997, prepared by Action Environmental, Inc., 85 River Street, Waltham, MA and Highland Management Associates, Inc., 354 Turnpike Street, Suite 303, Canton, MA 02021, plus architectural plans consisting of six pages, last updated December 9, 1997, prepared by Cramer & Levine and Co., Architects, 20 Hampton Drive, Suite 1, Easton, MA 02021 and Highland Management Associates, Inc., 354 Turnpike Street, Suite 303, Canton, MA 02021;
2. A communication dated July 24, 1996, from John B. Hepting, Inspector of Buildings, informing that the use permit for a dog kennel has been continuous since 1939 and runs with the land so long as successive owners continue the kennel use. Although the original permit does not specify the number of dogs, Mr. Hepting states the 160 dog maximum may continue from a zoning standpoint,

but suggests the number of dogs will most probably be a function of the septic requirements of the Board of Health. Finally, he confirms that the existing building, located wholly in a Business District, may be used as a veterinary clinic.

3. Two communications, dated March 22, 1996 and June 20, 1996, from Brian O. Butler, Oxbow Wetlands Associates, detailing the results of his field examinations of wetland on the site including: the delineation of such; the existence of stream within a drainage easement; a blocked 24" culvert at Goodman's Hill Road; and a depression on the north side of the property which does not constitute a vernal pool.
4. A communication, dated January 2, 1997, from Marcia J. Berger, President, Action Environmental, Inc., addressed to Robert Leupold, Director of Health, contending that the proposed septic system would comply with Title V setback requirements. Ms. Berger, relying on the wetland delineation proved by Brian O. Butler reports that the drainage and associated wetlands are more than 59 feet south-southwest of the proposed septic system. West of the proposed system, Mr. Butler found that the minimally closest point of the bordering vegetated wetland was approximately 36 feet west of the pavement of the road.
5. A communication, dated January 26, 1998, from I. William Place, Director of Public Works/Town Engineer, stating (1) a drainage easement, encompassing the open channel, should be granted to the Town for maintenance purposes; (2) the 36 inches corrugated metal pipe entering the channel, the channel itself and the twin 15 inches reinforced concrete pipe leaving the channel should be cleared of silt and debris, such work subject to approval by the Conservation Commission; (3) the walkway along Route 20 should be repaired and re-surfaced; (4) the existing 18 foot driveway from Goodman's Hill Road should be widened to 20 feet; and (5) parking calculations should be noted on SPA-2.
6. Communications, dated February 24, 1998, and March 4, 1998, from Jody A. Kablack, Town Planner, advising the Planning Board comments as follows: (1) calculations for building coverage, impervious surface, open space and parking, and height of structures should be included on the site plan; (2) use of the site must be better documented, including kennel, veterinary office, grooming, etc. and, although Zoning Enforcement Officer Hepting notes a maximum of 160 dogs, the application is for a 165 dog kennel; (3) it is critical that adequate separation exists between the bottom of the leaching galley and the seasonal high water table; and additional tests may be necessary in front of the site. Sheet SPA-7 should indicate elevations based on an actual test pit in the vicinity of the leaching galley to demonstrate such separation; (4) an outdoor lighting plan is required; (5) street trees are required along Goodman's Hill Road where existing vegetation will be removed for the septic system; (6) the proposal requires a variance from the commercial parking bylaw which requires parking behind businesses; the applicant needs to demonstrate that alternatives were considered, but found infeasible before the Planning Board will approve; (7) construction of a sidewalk is recommended along the Goodman's Hill Road frontage to help finalize the walkway being constructed along this roadway; (11) a special permit from the Board of Appeals may be required for expansion of a nonconforming structure since it fails to meet the 50 foot front yard setback; and (12) overall the proposal constitutes a significant improvement to the property and adjacent residential district; and informing that the Planning Board had voted to recommend approval of the site plan subject to these conditions.
7. A communication dated March 3, 1998, from John B. Hepting, Inspector of Buildings, stating that the parking calculations and site lighting should be included on the plans. Furthermore, he notes that the addition to the existing building will need a special permit from the Board of Appeals since it

does not meet setback requirements. Finally, he notes, contrary to the Town Planner's comments, parking in the front yard is permitted since it constitutes a pre-existing legal non-conforming use so long as there is no increase in the number of spaces.

8. A communication, dated March 3, 1998, from Frank W. Riepe, Chairman, Design Review Board, reporting the following recommendations of the Design Review Board: (1) street trees should be planted along both Boston Post Road and Goodman's Hill Road; (2) both primary and secondary buildings be re-designed to better meet the needs of the site. With respect to the primary building, the Board suggests a more rural agricultural or horse barn design instead of the proposed inappropriate and poorly proportioned neoclassical details and faux colonial details affixed to an industrial building. The Board faults the proposed design for an awkward roof line, overpowering air-intake vent on the front, and enormous fan housings on the rear, facing residential abutters. With respect to the secondary building, the Board finds the design to include an awkward roofline, poorly proportioned dormers and a characterless overall appearance. For inspiration, the Board suggests the applicant consider the well-designed horse barns on north Concord Road.
9. A communication dated March 4, 1998, from Deborah Dineen, Conservation Coordinator, informing that the Conservation Commission had considered the site plan and would be issuing an Order of Conditions on about March 16, 1998. She said the project involves the alteration of a drainage easement that is also a wetland resource area. The alteration includes removal of sand and alteration of the bank of a ditch to allow drainage from a new drainage swale, which will receive runoff from the underground leaching system. The new drainage design meets local and state standards and is an improvement over existing conditions. Furthermore, the Commission has not permitted any unnecessary removal of vegetation from within 100' of the wetlands, which includes the area between the drainage easement and Route 20. Finally, any plantings for enhancement within the wetland areas shall be native species only.
10. A communication dated, March 4, 1998, from Michael C. Dunne, Fire Chief, informing that the building will be fully sprinklered and adequate hydrants are proposed. He further notes there is sufficient access from Boston Post Road and Goodman's Hill Road. However, he notes that there is no access to the sides and rear of the building and that access on three sides is desirable.
11. A communication, dated March 5, 1998, from Robert C. Leupold, Health Director, informing that the septic design meets Title V regulations and includes an innovative technology for pretreatment of kennel waste and offers a significant upgrade to the existing situation.
12. A notation, dated January 27, 1998, from the Treasurer/Collector, indicating that Sit and Stay Kennels, owned by Roberta Brennan, 150 Boston Post Road, owes personal property taxes for the years 1992 - 1998, with the exception of 1994.
13. Copy of communication, dated January 21, 1998, from Raymond T. and Jeanne E. Clark, 7 Goodman's Hill Road, abutters, to the Applicant's attorney, posing several questions regarding the finality of the proposed site plan, and inquiring whether vivisection will be practiced at the facility and, if so, whether appropriate licensing had been obtained.

At the outset, Chairman Blacker said that the application requires unanimous approval by the Board and that he would be retiring from the Board at the conclusion of the Annual Town Meeting. For this reason, he suggested, if there were any problems which might cause delayed consideration of this plan, the applicant should consider rescheduling this hearing.

Myron Fox, Esq., for the applicant, indicated that he wished to go ahead with the application process this evening. Mr. Fox announced that the applicant had changed its name from Windsor Pet Care, Inc., to Best Friends Pet Care, Inc.

Regarding the history of the site, Mr. Fox said that Roberta Brennan has owned the property, some 1.6 acres, since 1980 and that she had purchased it from Ellen Jean Siegars, who had a kennel there since 1939. He said the property shares a common driveway with Wingate off the Boston Post Road and there are two other accesses on Goodman's Hill Road, one of which would be abandoned under the proposal. He explained that all buildings on the site, except the two-story residence, would be demolished. He said that the residence would be expanded for a veterinarian clinic. He stated that in 1971 Ellen Jane Siegars had given the Town a drainage easement across the southern portion of the property, which has now become a "jurisdictional wetland". He said this wetland would be cleaned up but otherwise left undisturbed. He said the Design Review Board had suggested the planting of street trees along Goodman's Hill Road, while the Planning Board had suggested the construction a sidewalk. He said that both suggestions could not be accommodated. He said the Planning Board had expressed a preference for the sidewalk and the applicant is willing to make such improvement.

Regarding the communication from Director of Public Works/Town Engineer Place, he said the applicant would provide the easement and clean out the drainage channel. He stated the applicant had no objection to widening the driveway off Goodman's Hill Road to 20 feet and to make all interior driveways 20 feet wide. However, he did question the need for re-surfacing the sidewalk along Boston Post Road since he believed Wingate had just done so.

In response to the Building Inspector's communication of March 3, 1998, Mr. Fox first addressed the parking calculations. He said, based on the square footage of the indoor kennel, the bylaws would seem to suggest 56 spaces. However, Mr. Fox explained, since there would be no change in use, the site was "grandfathered" with 13 spaces. He said there are thirteen parking spaces in the front of the building now and such would not change under the proposed site plan.

Selectman Drobinski asked Mr. Fox to show on the plans where the spaces were located and Mr. Fox did so.

Mr. Fox said the applicant had just completed a lighting plan and he presented such to the Board. Finally, he noted his agreement with the Building Inspector's assessment that a special permit would be needed from the Board of Appeals since the plan calls for the expansion of a non-conforming building, in that, the residence does not meet the 50 foot setback requirement. Mr. Fox, however, did note that the upcoming Town Meeting might obviate the need for such by revising the applicable bylaw.

Pertaining to the Fire Chief's communication, of March 4, 1998, Mr. Fox commented that there would be more access to the new building on all three sides than there is to the existing one. Mr. Fox contended that one would have access to three sides and that only the rear of the new structure would not be accessible.

Regarding the March 3, 1998, comments of the Design Review Board, Mr. Fox explained there would not be enough room to install both a sidewalk and street trees along Goodman's Hill Road. He also said street trees could not be planted along the Boston Post Road frontage without the Conservation Commission's permission because of the presence of wetland.

In response to the Town Planner's comments of February 24, 1998, he said that the use – boarding, grooming, training and some retail of food and accessories, such as collars, remains the same and the only



change is the inclusion of a veterinary clinic. He clarified that the application is for 160 dogs and noted that is what it has always been. He said the height of the building is 33 feet and showed the Board the elevations. He stated that, subsequent to this communication, the Planning Board has agreed to forgo the street trees in exchange for a sidewalk along Goodman's Hill Road. Mr. Fox again agreed that a special permit would be needed for the expansion of the residence because it fails to meet existing setback requirements. Regarding parking alternatives, he said there were no other schemes because of the wetland areas and septic systems needs.

Bruce Ey, engineer, Schofield Brothers, said he had been asked to review the groundwater and drainage issues at the site. He said that the wetlands on the site connect two adjacent wetlands. He said that the proposed septic system is particularly innovative; it will both treat and aerate the kennel wastes. He said the Board of Health has already issued a permit. He said, in order to meet DEP requirements, there will be a leaching galley under the parking lot for stormwater runoff and the water quality will be improved through the use of a swale before it enters the stream in the wetland.

Brian Costedio, Director of Architectural & Engineering Services, Highland Management Associates, showing a picture of the proposed new structure, said the Design Review Board did not like the use of the shutters, but contended such was merely a matter of opinion. He said that the indoor kennel would have a high rate of air exchange to control temperature and odor.

Selectman Clark asked about the triangular window treatment at the apex on the front of the building and Mr. Costedio responded that those were actually the air intakes for the air exchange system.

Mr. Fox stated that housing the animals inside would greatly reduce the noise factor and the abutting Wingate facility heavily favors such.

Selectman Clark asked if the air intake could be reversed to the back of the building, and Mr. Costedio responded that he could investigate the possibility.

Selectman Drobinski asked for the decibel level of the fans used for the air exchange system and Mr. Costedio responded 60 decibels total. He said the fans were quiet and dependable ones and were specifically chosen with the abutting residential neighborhood in mind. He added that the fans do not operate all at the same time. He explained they would be computer controlled and come on when needed to control temperature and odors in different parts of the interior of the structure. He also said that there would be baffles inside the structure so that animal noise would be contained.

Mr. Costedio said that the exterior of the structure would have both vertical wood siding and clapboard and a green metal roof.

Selectman Drobinski, noting that the air exchange would be 60 times an hour, asked for the CFM capacities of the fans and Mr. Costedio said he would have to get back to him with that information.

Raymond Clark, 7 Goodman's Hill Road, asked why there were so many fans and Mr. Costedio said they were designed to move air through different parts of the building.

Mr. Clark asked what would happen in the event of a power outage and Mr. Costedio responded there would be a hook-up to bring in a standby generator. Mr. Costedio added such would be needed to provide a safe environment for the animals.

Mr. Fox contended that the indoor kennel would be much quieter than the existing outdoor facility.

Selectman Drobinski stated that not knowing the decibel level and CFM capacity it was hard to say.

Selectman Drobinski also stated he had some concerns about whether there would be enough parking.

Mr. Fox responded he had calculated that 56 spaces are required in accord with the zoning bylaw, which looks to the square footage of the building. However, Mr. Fox contended that so many spaces would not be needed for an indoor kennel and the bylaw was flawed in that it did not specify an appropriate number for a kennel.

Chairman Blacker agreed saying there was clearly no need for 56 spaces. He noted the primary use would be for dropping off and picking up dogs.

Mr. Fox concurred, explaining that the building envelope inflates the percentage of parking supposedly needed and noted that there is no reason to think that more parking will be needed merely because the kennel will be indoors. He said the existing operation has a maximum of 160 dogs and such will not change under the site plan.

Selectman Clark suggested that Mr. Fox look at other towns which may have specific parking requirements for kennels to determine what an appropriate amount might be.

Selectman Drobinski asked how many employees were on site and Mr. Fox responded there were six now and there would be five-six employees under the proposed site plan.

Selectman Drobinski also asked about the veterinary clinic and if more parking might be needed for it, and Mr. Fox responded there would be only one veterinarian and presently the applicants were unsure if they were going to even use the second floor.

Selectman Drobinski asked for the footprint of the two-story building and Mr. Costedio responded that it had 787 square feet and 950 square feet would be added making a total of 1600-1700 square feet.

Selectman Drobinski commented that this was a lot of space for a veterinarian.

Mr. Fox responded there would be grooming and obedience school as well.

Selectman Drobinski asked if there was any space for additional parking and Mr. Fox responded that he did not believe so. He said there might be space for maybe a couple more, but it would be getting very close the wetland.

Selectman Clark asked if the walls would be insulated, and Mr. Costedio responded in the affirmative, noting that such would reduce the noise level.

Selectman Clark asked how thick the walls would be and Mr. Costedio responded 8" to 11".

Selectman Clark asked if the kennel would be air conditioned in the summer, and Mr. Costedio said no and explained that such would require massive condensers and was not realistic. He said there would be an evaporative cooling system.

Selectman Clark asked to see the outdoor lighting plan and Mr. Costedio presented such. Mr. Costedio explained there would be two pole fixtures and others mounted on the side of the building, some would be up-lights and others would have a spread of 76 degrees. He said that they were chosen so as not to disperse light onto the abutters.

Selectman Clark asked about the removal of solids from the septic system, and Mr. Ey indicated that such would be pumped every two years.

Selectman Drobinski asked about the screening between the side and rear of the property that abuts residential areas, and Mr. Costedio responded that the existing vegetation was pretty thick. He also explained that the partial six-foot fencing in the rear was actually a holding pen for the dogs in case of an emergency. He said he was willing to consider running the fence along the rear property line. He also said he was not averse to planting a hedge along the rear of the property.

Selectman Clark noted that such would also help to insulate the noise.

Selectman Drobinski commented the applicants had a unique opportunity to make this corner more attractive. He noted that he favored the planting of trees as suggested by the Design Review Board.

Mr. Fox said any planting along the Boston Post Road would require approval by the Conservation Committee.

Selectman Drobinski responded that a native tree such as a maple might be acceptable and suggested that Mr. Fox check with the Conservation Commission.

Mr. Ey added that care would have to be taken to make sure the traffic sight line at the corner of Boston Post Road and Goodman's Hill Road is preserved.

With regard to the planting of trees along Goodman's Hill Road, Mr. Fox explained that the sidewalk pavement would run very close the septic system and there was not enough space to both plant trees and install a sidewalk.

Selectman Drobinski stated that it appeared that there might be some areas along Goodman's Hill Road where there would be room for both.

Selectman Drobinski stated that he thought the Design Review Board had made some good points and asked Mr. Costedio if he were flexible on the design aspects.

Mr. Costedio responded that he was reasonably flexible. He said he had added the shutters and other ornaments to make the building more inviting and generally he is not asked to remove ornaments.

Selectman Drobinski asked if the large pine tree on the site would be removed and Mr. Costedio responded probably, but said that every effort would be made to preserve all existing trees with any substantial caliper.

Selectman Clark asked about the placement of fans and Mr. Costedio responded that it would not be feasible to place them on the roof since more larger and louder fans would be needed to move the air out through the roof of the building.

On motion of Chairman Blacker, it was unanimously

VOTED: To continue the public hearing on Site Plan Application 98-342 of Best Friends Pet Care, Inc., d/b/a Best Friends Pet Resorts & Salons, for a Site Plan Permit for property located at 150 Boston Post Road, until April 1, 1998, at 7:30 p.m. to allow Town Counsel to draft a decision and to allow the applicant to research the parking issue.

Late arrivals, Conservation Commissioners Meyer and Hanson expressed agreement with the planting of street trees along Route 20 if native species are used, but any removal of dead wood in the wetland would require review by the Commission.

Site Plan 98-341 – American Store Properties, Inc., 454/460 Boston Post Road (Osco Drug Store)

Present: Myron Fox, Esq., for the applicant; Jeffery Kevan, Site Engineer, T. F. Moran, Inc.; Todd Fourney, Environmental Consultant, Aqua-Terra; Bruce Ey, Engineer, Schofield Brothers; Ken Hysar, Architect, Cubellis Associates; Gene Jewel, Osco Project Manager for New England; Stephen M. Meyer, Chairman, Conservation Commission; Bridget Hanson, Conservation Commission and Strategic Planning Committee; Deborah Dineen, Conservation Coordinator, and others.

At 9:16 p.m., Chairman Blacker reconvened the public hearing, continued from February 9, 1998, on Site Plan Application 98-341 of American Store Properties, Inc., for a Site Plan Special Permit in accordance with Sudbury Zoning Bylaw Art. IX.V.A. to construct a one story, 13,671 sq. ft. Osco Drug Store with associated driveway, parking and drainage on property at 454/460 Boston Post Road, zoned Business District and Light Industrial District, Town Property Maps K08-065 & K08-062, owned by VHS Realty Trust and Arber Realty Trust respectively.

Notice of this continued public hearing was published in the *Sudbury Town Crier and TAB* on February 26, 1998.

The Board was in receipt of the following:

1. A communication, dated February 16, 1998, from Jeff Kevan, T. F. Moran, Inc., responding to the concerns of various Town Boards and Officials, and attaching six conceptual sketches of the site and a revised site plan.
2. A communication, dated February 19, 1998, from J. Todd Fourney, Operations Manager, Aqua Terra, Inc., addressed to Jeff Kevan, stating: the findings of its 21E investigation and report, results of groundwater level tests from nine monitoring wells, permanent perimeter drains will not be used, and construction of a subfloor passive depressurization system is not deemed necessary.
3. A communication dated February 19, 1998, from Deborah Dineen, Conservation Coordinator, informing that the layout sketch provided by the Design Review Board does not meet the requirements of the Conservation Commission.
4. A communication, dated February 20, 1998, from Fredric W. King, Senior Project Engineer, Schofield Brothers, addressed to Elizabeth Sabounjian, Mass. Department of Environmental Protection, requesting an on-site meeting with DEP.
5. A Notice of Appeal, dated February 23, 1998, from James A. Sprague, Section Chief, D.E.P., addressed to the American Stores Properties, stating the DEP appeals the Wetlands filing #301-597 and assumes jurisdiction over the project, specifying concerns: a) alteration of greater than 5,000 sq.

ft. of Bordering Vegetated Wetlands (BVW) and b) replication of BVW proposed on the western portion of the parcel does not comply with regulatory standards; and scheduling a site visit on March 24.

6. A communication dated March 4, 1998, from Michael C. Dunne, Fire Chief, stating a) the lane next to the drive-up window will be enlarged to a minimum of eleven feet per conversation with Jeff Karan of TF Moran on February 17, 1998, and eleven feet is an absolute minimum, b) the fire hydrant locations are now satisfactory to the Fire Department, c) there is still a question concerning the vehicle pass-thru height for the drive-up canopy, and d) the site is not "user friendly" for vehicles such as fire trucks, ambulances, delivery trucks, as backing up is required to maneuver around.
7. A communication dated February 17, 1998, from Frank W. Riepe, Chairman, Design Review Board, stating the Board believes the building can be brought closer to and parallel with the street, with parking on the side per enclosed sketch, and recommended the applicant be required to meet the zoning requirements of the Town, as have other commercial sites.
8. A communication dated March 4, 1998, from Jody Kablack, Town Planner, stating the Planning Board voted to recommend approval subject to the following conditions: a) bring signage into conformance with the Sign Bylaw, b) improve the walkway on Route 20 along the frontage of the site, c) limit the hours of operation to normal retail business hours; i.e., evening closing no later than approximately 10:00 p.m., d) design landscaping to hide the front parking, with inspection after the plantings are in place to ensure its effectiveness, e) check to be sure turning radius in the front parking area is sufficient and f) recommend that the Board of Selectmen consider prohibiting left turns out of the site until the traffic light has been installed.
9. A notation, dated March 5, 1998, from Robert C. Leupold, Health Director, informing he has reviewed the new environmental reports, and he is satisfied with them. He believes the Town will be protected under the processes in place relative to the contamination. Although not really necessary, he suggested the condition: "A Licensed Site Professional must participate in the construction phase of the project." He does not believe additional conditions are necessary concerning the several issues raised by the Water Resources Protection Committee.
10. A communication, dated February 21, 1998, from Rod S. DeMille, 179 Concord Road, Sudbury, noting that the Town had precluded drive-thru windows for dispensing food and drink at the 1994 Annual Town Meeting and requesting that the proposed drive-thru window be specifically limited to the sale of prescription drugs.

Myron Fox, Esq. stated he had been meeting with various Town boards and officials regarding this site plan for over a year now. He explained that initially they had been rejected by the Conservation Commission, but they continued to work to put something better on the site. He said because of the wetland locations on different parts of the parcel it made siting of the building and parking very, very difficult. If the building were moved forward and tilted parallel with the Boston Post Road so parking could be located in the rear, such would create a self-imposed zoning violation and would encroach on more than the permitted 5000 square feet of wetland. With these difficulties in mind, Mr. Fox cited the February 19, 1998, communication from the Conservation Commission, applauding the vast improvements to the site which are incorporated in the current Osco site plan. Mr. Fox also noted that the Director of Health supported the site plan. In conclusion, Mr. Fox said the proposed drug store would generate approximately \$30,000 in annual taxes to the Town.

Chairman Blacker asked the status of the DEP decision that the project could not be done.

Mr. Fox responded that DEP mistakenly believes the detention basin is going to be used for drainage. Mr. Fox contended that once they are on-site this matter could be clarified.

Chairman Blacker asked about the concerns raised by the Fire Chief, and Jeff Kevan explained the lane had been made 11 feet wide and the canopy raised to 10' 6" to meet the Fire Chief's requests. Chairman Blacker noted that Fire Chief Dunne had used the words *not user friendly*, and Mr. Kevan explained that a fire truck would have to probably do some backing.

Selectman Clark asked about the drainage and Mr. Ey responded it moved in a westerly direction and very little impervious surface was being added. Mr. Ey stated he did not believe DEP understood that currently stormwater drains into the wetland. He said the site plan would require various improvements to the existing drainage.

Selectman Drobinski stated it looked like the area drained to the south.

Mr. Ey responded that it does not connect to the Boston Post Road and explained there was a culvert under the driveway. He also said the site would be elevated some 18". He did say the small apron at the entrance would drain onto the Boston Post Road, and if such drainage were precluded they would have to put in a trench drain, which he opined created even more of a problem. He explained that such drains require constant maintenance. He said the final resolution would be determined once the state completes its redesign of the intersection.

Mr. Fox said he had received a copy of a letter from Rod DeMille, and Mr. Fox assured that only prescription drugs would be distributed from the drive-thru window. He said the drive-thru was intended to be a convenience to mothers with sick children and the elderly.

Bridget Hanson, Conservation Commission and Strategic Planning Committee, asked what alternatives had been considered for locating the parking.

Mr. Kevan responded that some eight - ten concepts were considered, but contended the wetland restriction precluded their feasibility.

Ms. Hanson suggested that if the applicant were willing to redesign the building and make it smaller such needs could be accommodated.

Stephen Meyer, Chairman, Conservation Commission, stated the plan presents a lot of positive trade-offs for the community. He noted the creation of the park and an endowment to maintain it. He noted the potential for having trails to some of the other commercial sites in the area, including Chiswick Park and Star Market. He said these and other improvements lent considerable value to the proposal.

Mr. Kevan said the small front parking area in front of the building would be hidden from view by a berm. He said it was not possible, given the interior merchandising needs, to make the building smaller. He said the building measures only 98'x75' as is.

Selectman Drobinski questioned the grading on the slope, saying it did not appear to be two-to-one, but Mr. Kevan contended such was the case when one takes it to the edge of the pavement.

Selectman Clark asked what happens if the project exceeded the 5000 square foot of wetland limitation, and Mr. Fox said such would require a permit from DEP, which is a very lengthy process.

Deborah Dineen, Conservation Coordinator, explained that the 5000 square foot limitation is a state, not a local, requirement. She said in cases where more than 5000 square feet is involved the state controls the project. Ms. Dineen opined that, if such were the case in this instance, the Town would not get as much in mitigation.

Selectman Drobinski said he would like to wait and see if DEP agrees with the applicant.

Mr. Kevan said, if need be, they could withdraw the pond from the plan.

Mr. Meyer said, if the filings had gone in separately, DEP would probably never have interjected itself. He said it was really a bureaucratic response to the way in which the matter was filed.

Mr. Fox said, whatever DEP does, it will not result in a better plan. He said the DEP is very bureaucratic, and Osco would probably withdraw if faced with pursuing a project exceeding the 5000 square foot wetland limitation. He contended the outcome with DEP should not affect the Selectmen's decision and urged the Board to vote on the matter.

Selectman Drobinski stated he still wanted to hear from the DEP before deciding.

Chairman Blacker said he felt differently. He noted that any subsequent changes to the plan would have to be approved by the Selectmen. He asked that Town Counsel revise the draft decision to specifically restrict the drive-thru operation to both "in-take and out-take for prescription drugs only" and that no sundries or other merchandise are to be dispensed from the drive-thru.

Selectman Drobinski added the hours of operation for the drive-thru should also be restricted to the same as that of the store. He also asked if the other matters raised in the March 4, 1998, Planning Board letter were acceptable to the applicant and Mr. Fox responded in the affirmative.

Thus, with the concurrence of the Applicant, the Board continued this matter until 8:30 p.m. on April 1, 1998.

Site Plan 98-343 – Sudbury Plaza Trust, 509 Boston Post Road (CVS Drive-Thru)

Present: Kelly Brown, Gravestar, Inc., Managers of Sudbury Plaza; Robert Landry, Esq., for the applicant; Tom Houston, CID Associates, Engineer and Planner for the project; Richard P. Carroll, Superintendent of the Sudbury Water District; and others.

At 10:07 p.m., Chairman Blacker convened a public hearing on Application SP 98-343 of Sudbury Plaza Trust, c/o Gravestar, Inc., for a Site Plan Special Permit in accordance with Zoning Bylaw Art. IX.V.A. to expand the CVS store on the north side by constructing a pharmacy drive-thru with canopy, at 509 Boston Post Road, zoned Limited Business District # 2.

Notice of the public hearing was duly posted and advertised in the *Sudbury Town Crier and TAB* on February 19, 1998, and February 26, 1998. Parties of interest, being abutters within 300 feet according to the Assessors, were provided written notice by first class mail. Additionally, the Planning Boards of Acton, Concord, Framingham, Hudson, Lincoln, Marlborough, Maynard, Stow and Wayland were provided written notice by first class mail.

The Board was in receipt of the following:

1. Application for Site Plan Special Permit, dated February 4, 1998, submitted by Gravestar, Inc., to construct a 270 square foot addition on the north side of the CVS store for a pharmacy drive-thru window and canopy, Sudbury Plaza, 509 Boston Post Road, and including the consent of record owner, dated January 16, 1998, executed by Deborah A. Ciolfi, Trustee, including Site Plan, dated October 31, 1997, last revised January 28, 1998, and Existing Conditions Plan, dated March 30, 1995, revised January 6, 1998, prepared by CID Associates Inc., 280 Summer Street, Suite 500, Boston MA 02210-1131, Leaching System Design, dated December 29, 1997, and Project Locus.
2. A communication, dated February 16, 1998, from Deborah Dineen, Conservation Coordinator, informing that an Order of Conditions had been issued by the Conservation Commission on December 17, 1997, requiring: (1) the addition of sediment basins to the existing drainage outfalls shown on the plan dated October 31, 1997; (2) catch basins shown on the plan are to have grease/gas traps with sumps of a depth acceptable to the Town Engineer; and (3) the new planting bed is to have only shade-tolerant native species.
3. A communication, dated February 18, 1998, from I. William Place, Department of Public Works/Town Engineer, recommending: (1) the inside radius by the transformer be changed from 10 feet to 15 feet; (2) gas and oil traps be Lebaron type L219-12 or equivalent; and (3) the stone berm located between the CVS parking lot and Boston Post Road (Route 20) be shown on the as-built plan.
4. A communication, dated February 24, 1998, from Jody A. Kablack, Town Planner, offering the following comments: (1) minor adjustments to the traffic circulation are necessary, including the removal of the second *No Left Turn* sign at the building corner, to allow two-way traffic into the parking spaces north of the building; (2) no building elevations are provided; (3) since the proposal displaces several parking spaces, a determination should be made by the Zoning Enforcement Officer that parking requirements for the site remain in compliance; and (4) the hours of operation and type of goods to be dispensed from the window should be stated; as with the Osco application, it is recommended the window be limited to the sale of prescription drugs during the normal store hours, and (5) outdoor lighting should be described.
5. A communication, dated March 4, 1998, from Jody A. Kablack, Town Planner, reporting that on March 3, 1998, the Planning Board found the subject Site Plan to be inadequate because it did not indicate traffic patterns and thus that Board was unable to make a recommendation and urges the Selectmen to require a plan showing circulation around the entire CVS building for distribution and review before the close of the public hearing.
6. A communication, dated February 21, 1998, from Rod S. DeMille, 179 Concord Road, Sudbury, noting the Town had precluded drive-thru windows for dispensing food and drink at the 1994 Annual Town Meeting and requesting the proposed drive-thru window be specifically limited to the sale of prescription drugs.
7. A communication dated February 25, 1998, from John B. Hepting, Inspector of Buildings, reporting he has no problems with the proposal and refers the above-listed letter from Rod S. DeMille for the Board's consideration.
8. A notation, dated March 2, 1998, indicating that Robert C. Leupold, Director of the Board of Health, has no concerns with the proposal.



9. A copy of the Planning Board Decision: Water Resource Special Permit, dated March 3, 1998, setting forth various Conditions and Requirements and Limitations.
10. A communication, dated March 9, 1998, from Michael C. Dunne, Fire Chief, making the following comments: (1) some parking spaces shown on the plan at the rear or east side of the building contain trash dumpster and these dumpsters should be moved away from the building as they constitute a fire hazard; (2) the distance from the northeast corner of the building to the parking spaces should be shown and should be at least 18 feet; and (3) during previous construction on this site the fire alarm cable was damaged and this site plan should be conditioned upon the payment of this outstanding debt in the amount of \$51.92.

Tom Houston, of CID Associates, the engineer and planner for the project, explained the site plan was for a drive-thru window and canopy on the north side of the CVS store. He said last week he had met with the Planning Board who had desired a graphic depicting the CVS store with the proposed addition in the context of the surrounding shopping center, and he had so revised the graphics to show such. He said the plan involved a 270 square foot addition, which would provide a small service area for the person working the window. The project would allow CVS to screen an existing transformer located alongside the building. He said the architecture of the small addition was designed to match both the Fleet Bank drive-thru at the other end of the building and the building itself. Approximately 500-600 square feet of pavement would be removed and landscaping installed to soften the reconfigured area. Additionally, one shade tree is to be planted just short of the wetland near the Boston Post Road to provide a transition.

Regarding vehicular circulation, Mr. Houston stated the existing one-way travel pattern, westbound or counter clockwise, would be reinforced. Regarding stormwater runoff, currently all runoff enters two catch basins across the parking lot and, except for the sumps in those catch basins, there is no treatment of the runoff before it is discharged into the wetland. Under the proposed plan, he said 100% of the canopy runoff would be recharged in a new dry well to be constructed to the east. In addition, in response to the Conservation Commission, he said two existing catch basins would be retrofitted with hood and sumps. All utilities would be brought on line from the interior of the store. Further, the plan entailed vehicular signage to ensure the correct traffic pattern and a small drive-thru sign.

Under questions from Chairman Blacker, Mr. Houston stated that he had no problem complying with the February 18, 1998, recommendations of the Director of Public Works/Town Engineer, that is, to increase the radius by the transformer to 15 feet, to use Lebaron type gas and oil traps and to note the stone berm on the as-built plan. Furthermore, Mr. Houston agreed to comply with the March 9, 1998, requests of the Fire Chief, which included moving the dumpsters, providing a distance of at least 18 feet between the northeast corner of the store and the parking spaces and noting the actual distance on the plans, and paying the outstanding debt in the amount of \$51.92 to the Fire Department. Finally, he assured Chairman Blacker that only pharmaceuticals would be sold, and the hours of the drive-thru would be the same as the store hours.

Selectman Clark asked Mr. Houston if he had considered reversing the proposed route for the drive-thru traffic and making it clockwise? She said when people see the drive-thru they are going to migrate to it.

Mr. Houston responded that generally counterclockwise traffic patterns are used, citing rotaries as an example.

Chairman Blacker noted that the driver's position on the left side of the car seemed to dictate drive-thru pick-ups be on the left.

Mr. Houston agreed, noting in this case, if the traffic were routed the other way, the drive-thru station would have to be redesigned.

Selectman Drobinski asked if the recharge would affect other ongoing activities there, and Mr. Houston said no.

Richard P. Carroll, Superintendent of the Sudbury Water District, cautioned the applicant to be certain of the underground utility line in the area, and Mr. Houston agreed, noting one of the utility lines will have to be moved to install the leaching basin. Superintendent Carroll also asked about the drainage and if there would be any possibility of contaminated ground water entering the aquifer. Mr. Houston responded that they had considered such, but the specific area at issue is clean and surface water discharge from the roof is clean. Thus, he said, they concluded the proposal was appropriate in a Zone II Water District.

Selectman Drobinski suggested the applicant's environmental engineer issue a letter that the recharge here would be of no impact on the water quality.

When asked by Superintendent Carroll about the deep borings being taken at the plaza, Mr. Houston said that such were not taken in association with this project, but did say if any new information required a different approach he would come back before the Board.

Paul E. Bisson, 55 Highland Avenue, said he was concerned about increased debris and litter from the site and asked if it would be possible to install a fence and some plantings to screen the Highland Avenue Side.

Mr. Houston indicated he could accommodate this request.

Chairman Blacker moved to continue the hearing until 9:00 p.m. on April 1, 1998, and requested in the interim that Town Counsel Paul Kenny obtain a letter from the applicant stating the proposed recharge will not affect the groundwater.

Robert Landry, Esq., for the applicant, indicated he had a letter addressing those concerns and presented such to the Board.

Upon reviewing the letter, Selectman Drobinski returned it to Mr. Landry and asked that the matter be further clarified to include a finding that the additional recharge will not impact the water quality.

Mr. Landry agreed to do so.

It was on motion unanimously

VOTED: To continue this hearing until April 1, 1998, at 9:00 p.m., and to request Town Counsel to prepare a Decision for the Board's consideration at that time.

Site Plan Application SP 97-340 – AT&T Wireless PCS, Inc., Maynard Road

Present: Steven D. Anderson, Esq., Anderson & Kreiger and Peter Jeffery, Radio Frequency Engineer, for applicant, AT&T Wireless PCS, Inc.; Mark Berthiaume, Esq., Goldstein and Manello, representing some of the Willis Hill residents; Richard P. Carroll, Superintendent of Sudbury Water District; Henrietta Bernstein, 1 Bryant Drive; Charles R. Mainville, 288 Maynard Road; Margaret Querze, 138 Fairbank Road; Nancy J.

MacPhee, 5 Marlboro Road; Rod DeMille, 179 Concord Road; Joan Kramer-Brooks, 17 Briant Drive; Kelly J. McCrann, 4 Michael Lane; and others.

At 10:45 p.m., Chairman Blacker reconvened the public hearing, continued from December 22, 1997, and January 12, 1998, on Application SP 97-340 from AT&T Wireless PCS, Inc., for a Site Plan Special Permit in accordance with Sudbury Zoning Bylaws Art. IX, V.A., to add to the wireless communication facilities on the Sudbury Water District property on Maynard Road, by attaching a 80.5 foot pole to the side of an existing water tank, with antennas, cables and cable tray, and installing equipment cabinets, in Residential District C-1, per the revised plans dated December 19, 1998.

Notice of this continued public hearing was published in the *Sudbury Town Crier and TAB* on February 19, 1998.

The Board had received from AT&T Wireless PCS, Inc., and eight overlay maps showing coverage thresholds using various sites within the Town. Also received was the applicant's agreement, signed February 11, 1998, to the continuation of the site plan hearing to this evening, March 9.

Steven D. Anderson, Esq., said that the applicant, AT&T Wireless PCS, Inc., had been asked to consider other locations and alternatives. He explained that he had met with the Town Planner and representatives of the neighborhood. As a result he considered the following. He said that the Cutting property off Rt. 27 was considered, but the landowner was unwilling to lease or even sell a portion of the property for a wireless communication facility. Mr. Anderson said he also considered the FEMA Property, off Rt. 27, but again the property was not available. He said that the Fish and Wildlife property suggested would not work from a Radio Frequency perspective. He said that they had also considered the Fire Station on Hudson Road and the First Parish Church steeple in Sudbury Centre. He said a 100-foot pole would be needed at the Fire Station site and questioned the appropriateness of such, noting the location is virtually in the center of Town. Regarding the First Parish Church, he said it would not be as good a site as Willis Hill. Furthermore, under a proposed bylaw a variance would be needed for both setback allowances from residential lot lines (500') and from school buildings (1000'). He noted there is a school within the church itself as well as an elementary school nearby. Additionally, he said that another company, Omnipoint, is planing to install a PCS facility within the steeple and such raises questions of interference and Radio Frequency issues. He said Omnipoint apparently negotiated a lease last fall with the church. With regard to Omnipoint, Mr. Anderson submitted a copy of the Omnipoint Communication Services' petition before the Sudbury Board of Appeals, seeking necessary variances from the proposed bylaw.

Mr. Anderson stated the Sudbury Water District Commissioners have decided not to lease any more space at the Willis Hill site. Thus, Mr. Anderson contended that it would not become an "antennae farm". He said that he intended to pursue the site plan application process and requested a vote from the Board.

Regarding the antennae options, Mr. Anderson showed the Board the two alternatives. He said the one in the proposal is a cross-polar antenna. He said it is actually three antennae within a sleeve and looks like a flagpole. The sleeve is 12 inches in diameter and could be reduced to 10 inches in diameter. He said such a reduction in size would expensive, but could be done. However, Mr. Anderson said that given the distances at which the proposed antennae at Willis Hill would be seen, he did not believe reducing the diameter by a matter of two inches would make much difference. Nonetheless, he offered to, if it made a difference to the Board. The other option, Mr. Anderson said is using three whip antennae, but such would have to be mounted 12 feet apart. Although much smaller in size, he questioned this alternative given that there would be three separate antennae. He also said that the coverage would not be as good as with the cross-polar antennae. However, he offered to substitute this type of antennae if the Board so chose.

Peter Jeffery, Engineer for AT&T Wireless PCS, Inc., presented the Board with seven overlays depicting wireless service if generated from various different PSC sites within the Town. The first overlay depicted the existing coverage from the AT&T Wireless Corporate Center in Maynard. Another overlay depicted coverage from the existing facility off Rt. 117. Mr. Jeffery noted that with the inclusion of the Willis Hill site a small gap would still exist and the DPW site might also be needed. However, he noted that the Willis Hill overlay reveals that it is a far superior site to either the Fire Station or the First Parish Church sites. Displaying the Fire Station and First Parish Church overlays, he explained that Willis Hill blocks coverage from those sites. He noted with the church there would need to be a 10' vertical separation between the AT&T equipment and Omnipoint's. He described the church as a marginal site and said that the Fire Station was better because it was closer to Willis Hill. Mr. Jeffery concluded that the Willis Hill and DPW sites provide the best coverage assuming no variances on the 100' height maximum. He said if they were able to exceed the 100' maximum at some of the sites along Rt. 20 they might be able to eliminate the need for the DPW garage site to cover the gap to the south. Mr. Jeffery showed overlays depicting service generated by potential PCS facilities sited at Raymond Road and the Sudbury Landfill. Regarding the antennae options, he said that the cross-polar, which essentially looks like a flagpole, constitutes a significant downsizing from a nine panel triangular antennae.

Richard P. Carroll, Superintendent of Sudbury Water District, said that the District had four water tanks: two at Willis Hill and one each at Bigelow Drive and Goodman's Hill. He explained that the Water District had planned to lease Water District property to offset tax revenues needed for maintenance of the tanks. He said that this is a common practice with municipalities across the country. He said they were first approached about leasing the land off Rt. 117. He said they agreed to lease the property at the rate of \$15,000 per year, payment being made in a lump sum of \$75,000 every five years. With four antennae sites, he said Commissioners projected an income of \$300,000 every five years. He said each water tank needed to be painted every 20 years and they were painted on a rotating schedule, involving one being painted every five years. He said the recent bid for the painting of one of the water tanks at Willis Hill was \$270,000. He said the leases had also provided certain other amenities, including, for example, fencing and stand-by power at the tank sites. He said that revenues from the AT&T proposal at hand would complete the balance needed to maintain the tanks, and the District did not intend to enter into any more leases. In fact, he said that two other companies had approached the District and it had indicated that it was not interested.

Selectman Drobinski asked Radio Frequency Engineer Peter Jeffery to clarify why he had described the church site as "marginal," and Mr. Jeffery responded that because of the proposed Omnipoint facility in the steeple the AT&T antennae would have to be at least 10' below that of Omnipoint. Without sufficient separation, the other transmitter would cause interference. He explained that when he plotted the service from the church it was plotted at 21 meters and in actuality it would have to be something less than that in order to get below the Omnipoint equipment. If the AT&T antennae were dropped three meters, the service area covered would be even smaller than that shown on the overlay and the service gap widened.

Selectman Clark asked if it were possible to use the tower in Hudson, and Mr. Jeffery responded that with only 30 watts of output it would not reach the needed areas. He said that generally there is coverage only for about a two-mile area and the tower in Hudson is some four to five miles away.

Selectman Clark inquired if the applicant could live with a 40' height restriction and cells on utility poles and Mr. Jeffery responded that a system could not be built with such a restriction in New England where the average tree height is 70-80'. He said you would need a site every quarter mile. He said, for example, if the town of Lincoln had such a restriction, it would require 80 sites to have a system and that Bell Atlantic does not have enough data links to do so.

Selectman Clark then inquired about the 50' height restriction just adopted by the Town of Wayland. Mr. Jeffery responded that the Wayland provision allows wireless operators go 20' over the top of the Boston Edison power lines running parallel to Rt. 20; the result being that all the companies will site from those towers. He added that some communities, such as Newton, have required wireless operators to utilize buildings and such works there where there are many high buildings, but would obviously not work in Sudbury.

Selectman Clark commented that Holliston had proposed a 40' height restriction.

Mr. Jeffery responded he knew of no system that was built entirely out of micro cells. He said even systems in Manhattan and Chicago, which use a lot of micro cells, still have macro cells. He likened the macro cells to the glue that holds the whole system together.

Selectman Drobinski asked about the previously discussed possibility of moving the installation to a different quadrant on the tank, and Mr. Anderson responded he understood that such would merely shift the problem to a different horizon. He said he would be willing to do so if the Board felt such was a reasonable condition to impose in order to mitigate neighborhood impact.

Henrietta Bernstein, 1 Bryant Drive, said that AT&T only wants the one antennae, but she was concerned about the Town's inability to discriminate against other operators if it lets AT&T install its antennae. She said she would like to see some sort of guarantee that the Town would not have to let other operators onto the site. She said that no one wants an antennae farm.

Charles R. Mainville, 288 Maynard Road, opined that under the Federal Telecommunications Act the Town will not be able to discriminate against other operators if it approves AT&T's application. He predicted the Town would be forced to approve up to eight more towers on the tank.

Margaret Querze, 138 Fairbank Road, stated she was opposed to the tower both for aesthetics and health reasons. She said that she was currently under medical care for a multi chemical sensitivity disorder she had acquired as a result of exposure to toxins in Saudi Arabia immediately following the Persian Gulf conflict. She feared her health would be impacted by exposure to microwave radiation emitted by the proposed facility. She said she might be required to move from the Town and further stated the increased demands for housing in the Town has forced the wildlife into the streets. She said now it seems that humans may also be forced to relocate. She proposed that AT&T buy the Weisblatt property and put the tower there.

Nancy J. MacPhee, 5 Marlboro Road, asked if any of the Selectmen had attended the meeting in Lincoln where a panel of experts had discussed possible medical problems caused by such facilities?

Chairman Blacker responded in the negative, but explained that under the Telecommunications Act local communities cannot deny a tower for reasons of health.

Chairman Blacker said he thought the Board had asked Town Counsel to provide an opinion as to whether or not the granting of this permit under the Telecommunications Act affected the Water District's ability to refuse other applicants onto the site in the future. He said he could not believe that such was the case. He reasoned that a private property owner could not be forced to allow other operators on his land merely because he chose to allow one to do so.

Selectman Clark agreed, saying such would be unconstitutional.

Chairman Blacker said he believed the "nondiscrimination" provision to mean that if the Town granted, say a height variance for one, it would have to do so for others. He said he could not believe the Telecommunications Act requires a landowner, who rented to one tower, to thereafter rent to all other towers.

Rod DeMille, 179 Concord Road, noted that the Board had the issue of Willis Hill tonight, but it seemed that another application would be forthcoming regarding the DPW garage.

Selectman Clark agreed, saying we are going to have towers all over the place.

Mr. Jeffery stated that more than likely the applicant would request a variance on the maximum 100' height requirement along one of the Rt. 20 sites in order to avoid the need to build a tower at the DPW site. He noted that Rt. 20 had more industrial development, including, for example, the landfill.

Selectman Drobinski commented that the Board would be dealing with the same issue again and again with each proposed installation in different neighborhoods.

Selectman Clark said that she was bothered by the basic concept and questioned the applicant's *utility* designation. She noted the deregulation of the electric and telephone companies, but at the same time the continued reliance on the same old infrastructure. She said, with wireless service operators wanting towers all over the place, it is going to change the whole Town. She surmised that it was really a matter of convenience rather than necessity and the matter has to go to the legislature.

Chairman Blacker questioned how many of those people present, who were opposed to the tower, had cell phones in their immediate families. He noted that one could not have it both ways.

Joan Kramer-Brooks, 17 Briant Drive, commented that the proposal at hand was contrary to the philosophy underlying the Town's recent vote to purchase the Meachen property. She opined that if more towns voted down these requests, AT&T, with its vast development and research capabilities, will come back with better ideas, more compatible with rural landscapes.

Pamela Ellertson, 84 Cudworth Lane, asked the size of the gap if the Fire Station site were used.

Mr. Jeffery responded he could not be certain as to the size without conducting further tests, but it would cause the phone call to be dropped and the cell service provides the customer with a minute of free usage for each dropped called.

Chairman Blacker interjected that he could not see any advantage to having a 100' tower in front of the Fire Station at the intersection of Rt. 27 and Hudson Road compared with one in the trees on Willis Hill.

Ms. Ellertson responded she had understood from previous discussions that it would not be *in front* of the Fire Station and that was her next intended question.

Mr. Jeffery responded he had reviewed the Fire Station site and, given the proximity to both wet land and the Historic District, he believed the only possible site that could support such a tower would be immediately to the right of the station.

Selectman Drobinski and Chairman Blacker both noted that such would also fall within a residential zone.

Ms. Ellertson said that had been her next question.

Mr. Anderson stated most of the Town is zoned residential; he submitted to the Board a Town of Sudbury Massachusetts Zoning Map-1996 on which he had colored those areas which were zoned other than residential. He said such exhibit clearly illustrates that most of the Town is zoned residential, and it would be virtually impossible to meet the 500' setback provision in the proposed bylaw.

Kelly J. McCrann, 4 Michael Lane, questioned why the telecommunications gap needed to be filled. He said there are plenty of gaps all over the place, and he has learned to live with the gaps. He said if he truly has a need he would stop and use a pay phone; he would rather live with a gap than an antennae farm.

Charles R. Mainville, 288 Maynard Road, countered that AT&T could buy the whole Cutting property and meet the proposed setbacks. He cautioned that under the Telecommunications Act an individual landowner was in a different position than a Town which grants a site plan special permit allowing the installation of an AT&T tower on one of the Town's water tanks. Under those circumstances, he contended the Telecommunications Act specifically precludes the Town from discriminating against carriers providing functionally similar services. In conclusion, he urged the Board to have the courage to say no in much the same way as the early colonists said no to British taxation.

Richard P. Carroll, Superintendent of the Sudbury Water District, noted there is already one antennae on the tank and said, if the Town could not discriminate among operators once it had let one operator on the site, it had already opened that door.

Henrietta Bernstein, 1 Bryant Drive, contended that basic fairness required the Board know exactly what the law says before it decides. She urged the Board not to decide based on speculation.

Chairman Blacker agreed and moved to approve the site plan at the proposed location for the one 12-inch antennae *subject to* obtaining an opinion from Town Counsel stating that the Telecommunications Act does not require approval of subsequent petitioner(s) of a similar type of service onto the site under the guise of the non-discrimination provision.

Chairman Blacker stated that, if he received an opinion from Town Counsel that the site could be restricted, he would be in favor of the application. He said he did not have a problem with one antenna on Willis Hill. However, he said if the opinion were negative he would not be in favor of the proposal. He said that he did not want an antennae farm on Willis Hill and he reasoned that such would constitute more of a detrimental burden than the surrounding neighborhood was expected to bear.

Mr. Anderson suggested that the legal opinion distinguish between the Town's permit granting authority and the Water District's authority as a landlord to refuse further leasing.

Chairman Blacker agreed and said that Town Counsel should consider both perspectives in the requested opinion.

When asked why he felt a need to commit this hill to a wireless facility, Chairman Blacker responded that he had seen no health, safety or welfare issue on which to deny the application. He explained he had to decide the matter in accord with the terms of the site plan bylaw. He said the Board had been cautioned by the Attorney General's office not to use the Board's permit granting authority as a zoning tool; in other words, to deny projects that are otherwise allowable. Chairman Blacker read from the applicable bylaw. He said he believed the proposal for one tower does not constitute any *adverse effects* on the abutters.

When questioned about the evidence of diminished property values, Chairman Blacker stated he did not believe it. He said for eight months of the year no one would be able to see it due to vegetation. He said he had driven up there and one could barely see the water tower and until this issue was raised, he had never seen it from Rt. 27 and did not know it was even there. He said he could not believe the addition of one 12-inch antenna, five feet above the tree line, which hardly anyone will see, to the existing water tank will cause property values to drop. He agreed the installation of thirty such towers would diminish property values by probably 30%, but did not believe the single tower proposed would have any effect.

When asked if the Town would litigate its position, Chairman Blacker agreed saying he would definitely defend against such further installations. For this reason, he explained that he would approve the site plan only if Town Counsel is able to definitively say that the Town could refuse additional applicants on the site. He said that he did not want to be on the "slippery slope" and he would need a good solid opinion.

Mr. Carroll, Superintendent of the Sudbury Water District, said there was not enough land there to support additional installations or structures.

Notwithstanding these space limitations, Chairman Blacker said that he wanted an opinion that the Water District could say no.

Charles R. Mainville, 288 Maynard Road, countered that the antennae would be highly visible from his street, the Willis Hill neighborhood and Fairbank Road. He urged the Board to have the courage to say no. He contended that the project was contrary to the character of the Town.

When several residents contended that property values would be damaged by the proposed tower, Chairman Blacker responded that reasonable people could differ.

Selectman Drobinski stated that he was concerned whether the Town would be able to control the siting of antennas and how it would do so. He opined, if this one were stopped, there would be a proposal for an installation in another neighborhood and he doubted that those present would attend that meeting.

Mr. Mainville interjected that that was not the case with him. He said he had attended the very first meeting regarding the proposed tower at the landfill some one and one-half years ago. He said that he stood alone against that proposal and is opposed to the visual degrading of the Town.

Another resident contended that it was not an issue of simply moving the proposal to another neighborhood. She said that she did not want to see towers in her neighborhood or any other neighborhood in the Town. She said that it was really a quality of life issue for the entire Town.

Chairman Blacker asked for a second to his motion; for purposes of discussion, Selectman Drobinski seconded the motion.

Selectman Clark said that she believed the integrity of the community was more valuable than the convenience of the wireless services. She said if the Town has to go to court and defend its position, then so be it. She said the cell companies have to understand that they must come up with solutions and alternatives that are appropriate for residential communities.

Selectman Drobinski said that at the last hearing he had hoped there could be some appropriate alternative, but the outcome of those efforts was not favorable. He stated that he did find the proposal to be detrimental to the neighborhood.



Chairman Blacker then moved to approve the site plan as presented, effectively amending his existing motion, which was conditioned upon a subsequent and favorable opinion of Town Counsel. He explained, given the positions of the Selectmen Clark and Drobinski, the legal opinion was a moot point.

Chairman Blacker called for a second so the Board might vote on the matter, and Selectman Drobinski seconded the motion.

Thus, the motion, duly seconded, to approve Site Plan Application SP 97-340 by AT&T Wireless PCS, Inc., for a Site Plan Special Permit in accordance with Sudbury Zoning Bylaws Art. IX, V.A., to add a wireless communication facility on the Sudbury Water District property on Maynard Road, by attaching a 80.5-foot pole to the side of an existing water tank, with antennas, cables and cable tray, and installing equipment cabinets, in Residential District C-1, per the revised plans dated December 19, 1998, failed by a

VOTE: of two to one.

(Chairman Blacker, aye; Selectmen Drobinski and Clark, nay.)

The public hearing was continued to April 1, 1998, at 8:30 p.m. in the Senior Center for the purpose of approving and signing a decision to be prepared by Town Counsel accordingly.

#### 1998 Annual Town Meeting

Regarding Speaker Assignments and Board Positions on Articles, the Board agreed to continue consideration of these matters until its next regularly scheduled meeting on March 23, 1998. Since Selectman Drobinski will be absent, the Board agreed to assign speakers in accord with the Board's liaison assignments and, if Chairman Blacker and Selectman Clark are unable to agree regarding a Board Position, the Board will indicate it will provide separate opinions.

#### Town Manager's Contract

Chairman Blacker stated the Town Manager's employment contract would expire in March of 1999. Saying that Mr. Ledoux had done a wonderful job, he suggested the contract be extended for another two years. Chairman Blacker noted his upcoming retirement from the Board and contended that an extension would afford Mr. Ledoux stability.

Selectman Clark said that it was unusual to extend such a contract before the time was up. She calculated that the Board would have to make its decision within six months or by September 1998. She said that she wanted to think about it, but she did not find that stability was a sufficiently compelling reason to justify an extension at this juncture.

Thus, Selectman Clark asked that the matter be continued until the Board's meeting on April 1, 1998 and the Board concurred.

#### Donation – DARE Program

Upon motion, it was unanimously

VOTED: To accept a donation in the amount of \$150 from the Kiwanis Club of Sudbury and Wayland to the DARE Program and to authorize the Chief of Police to expend the same in accord with the tenets of said program.

#### NEXTEL Proposal for a Cell Tower

Town Manager Ledoux said that he had met with a representative of NEXTEL regarding their interest in siting a cell tower on a portion the former Unysis property. Town Manager Ledoux explained that in order for the Town to permit such it would have to declare that portion of the Unysis property as “surplus property” and furthermore the Town would have to issue a RFP. In view of the Board’s decision this evening, Town Manager Ledoux requested direction from the Board as to whether Town staff should devote time to this matter.

Chairman Blacker noted that the site was a highly visible one and the Board agreed.

Thus, the Board concurred that Town staff should not devote its limited resources to this project.

#### MBTA Assessments

The Board was in receipt of a communication, dated March 3, 1998, from John Ellsworth, Chairman, Ashland Board of Selectmen, asking the Town of Sudbury to join them in a lobbying and/or litigation effort to change the formula for MBTA assessments. He notes that although there has been considerable expansion in service in the past some thirty years there has been no corresponding increase in member communities who share in the costs. He contends as a result MBTA members pay a disproportionate share of the MBTA’s operating costs. He said the Ashland Board of Selectmen has concluded that this is not only unfair, but unconstitutional and is exploring grounds for political or legal action to end this injustice. He asked the Town of Sudbury to join in this effort by sending a representative to a meeting on this matter on March 30, 1998 in Ashland.

The Board agreed with the Ashland Board of Selectmen’s assessment in this regard and directed the Town Manager to attend this meeting or send an appropriate representative.

#### Powers Road Property

The Board was in receipt of a communication, dated March 5, 1998, from Betsy Soule, Esq., South Middlesex Legal Services, Inc., requesting that her client, Shirley Ann Corbin and Ms. Corbin’s daughter have until the end of March 1998 to vacate the premises.

Town Manager Ledoux suggested that this request was a reasonable one and the Board concurred. Furthermore, Chairman Blacker directed Town Manager Ledoux to remind Town Counsel to make sure that any proceeds in excess of the \$115,000 owed in back taxes be given to Ms. Corbin, if possible.

#### Executive Session

Town Manager Ledoux requested the Board go into Executive Session to consider a collective bargaining matter.

On motion by Chairman Blacker, by roll call vote, it was unanimously

VOTED: To enter into Executive Session for the purpose of considering a collective bargaining matter.

Chairman Blacker announced the Board would not return to open session.

(Chairman Blacker, aye; Selectman Drobinski, aye, and Selectman Clark, aye.)

Adjournment

There being no further business to come before the Board, the meeting adjourned at 11:50 p.m.

Attest: \_\_\_\_\_  
Steven Ledoux  
Town Manager-Clerk